

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Replacement of Part 90 by Part 88)
to Revise the Private Land Mobile)
Radio Services and Modify the)
Policies Governing Them)
)
and)
)
Examination of Exclusivity and)
Frequency Assignment Policies of)
the Private Land Mobile Radio Services)

PR Docket No. 92-235

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OFFICE OF THE SECRETARY

To: The Commission

PARTIAL OPPOSITION TO PETITION FOR CLARIFICATION

MRFAC, Inc. ("MRFAC"), by its counsel, hereby partially opposes the Petition for Clarification filed by American Petroleum Institute ("API") in the above-captioned proceeding. In support MRFAC submits the following.

INTRODUCTION

MRFAC is a non-profit entity incorporated 21 years ago as the Manufacturers Radio Frequency Advisory Committee, Inc. MRFAC provides frequency coordination and application assistance for Part 90 applicants. MRFAC continues today as one of the Commission's certified Industrial/Business Pool coordinators. MRFAC operates independent coordination facilities from offices located in Herndon, Virginia.

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MRFAC also serves as an advocate for the radio spectrum concerns of its members. MRFAC's membership is drawn primarily from America's manufacturing industry, many of its members representing the largest U.S. corporations with extensive radio facilities.

BACKGROUND

API seeks the adoption of coordination criteria applicable to the shared channels at issue in the Second Memorandum Opinion and Order, FCC 99-68, released April 13, 1999. In support, API notes that the Commission specified coordination criteria for trunked systems that would operate below 512 MHz, see Third Memorandum Opinion and Order, FCC 99-138, released July 1, 1999, but did not specify such criteria for conventional systems. API argues that such criteria are needed in order to protect pipeline radio systems. It further contends that its designated coordinator should be empowered to refuse coordination in any instance where an applicant's proposed interference contour would overlap an incumbent pipeline operator's service contour. In such circumstances, according to API, the applicant would be given an opportunity to demonstrate that it would not cause harmful interference.

DISCUSSION

MRFAC does not take issue with the specification of coordination criteria. Such criteria represent merely a refinement of the approach requested by API in its Petition for Reconsideration filed over two years ago. MRFAC supported the concept then (i.e. the specification of prescribed ratios for interference contour to service contour overlap), and supports the same concept today.

Where MRFAC takes issue with the petitioner, however, is with its premise, i.e. the notion that only its systems (and those of the other industries seeking a separate pool) are worthy of contour protection.

Fundamentally, API's Petition relies on the Second Memorandum Opinion & Order which would accord the pipeline, power, and railroad coordinators a coordination prerogative on channels shared with US manufacturers for over 40 years. However, as MRFAC has observed in its pending Petition for Partial Reconsideration of the Second MO & O, there is no basis for relegating manufacturers to the status of second class citizens on channels which they have shared harmoniously with the petitioner's industry for decades, and which they continue to rely upon heavily today. Indeed, were the Commission to grant relief in the form requested, it would create overnight an exclusive pool for pipelines et al on frequencies heavily shared with manufacturers.

The notion that API's coordinator (and incumbent pipeline systems) would not have a veto over new channel sharing, because the applicant could still attempt to justify its proposal in the face of an API objection, is a rhetorical flourish. A manufacturer needing a new system could not afford to wait many months it would take to resolve the merits of an objection lodged by an API incumbent. Even if the Commission were the final arbiter (as opposed to API or its constituent), that would simply mean more delay, not to speak of additional work for the Wireless Bureau's staff, while an attempt were made to sort the matter out. The practical effect would be to force the manufacturer at the outset to select another frequency, even if the one preferred was the most appropriate for its needs as well as from a frequency coordination standpoint. By any realistic definition the result is exclusivity as against manufacturers. Indeed, API's own frequency coordinator, Industrial Telecommunications Association, has already

observed that the Second Memorandum Opinion & Order's coordination rule for shared frequencies, which API's instant Petition simply would refine, creates a "de facto separate pool" for API's constituents. See ITA Comments in WT Docket No. 99-87 filed August 2, 1999 at 12.

In this regard, it is critical to appreciate the basis for API's request. When API and its allies refer to the need for protection from "interference", they are not referring merely to instances of an unsatisfactory D/U ratio. What they are referring to has as much - - if not more -- to do with access to spectrum as it does static. For example, in their comments filed in WT Docket No. 99-87, the petitioner and its allies have argued that, notwithstanding the protection given by the Second Memorandum Opinion & Order, they need a new and separate pool of at least six (6) MHz. This new pool would be stocked with spectrum shared harmoniously with other industries. It would be located above and below 512 MHz. It would include MAS spectrum at 900 MHz, OFS spectrum at 6, 11, and 18 GHz, and a new allocation at 700 MHz. According to the petitioner and its allies, this pool is necessary to prevent "encroachment" on "their" spectrum by other industrial users.

However, the solution to the spectrum access issue lies not in the creation of some one-sided protection regime which benefits petitioner's industry, while wreaking havoc on industries that are good neighbors of long-standing. The solution lies in the adoption of reciprocal coordination criteria which respect the legitimate needs of the few industries which historically have shared VHF and/or UHF channels (see Attachment for details) for protection from interference, combined with an aggressive joint effort to allocate new spectrum for private wireless users.

If the petitioner and the other separate pool proponents are truly concerned with interference protection -- as opposed to appropriating spectrum shared with others -- they should

have no problem according their neighbors the benefit of the same coordination criteria they seek for themselves. That is, they should have no objection to requiring that any new system -- a pipeline system or a manufacturer's system -- be subject to the same interference contour to service contour analysis. A new system proposing overlap of specified contours with an incumbent system should be subject to notification to the coordinators for the few services which shared the channels prior to consolidation and/or to the incumbent, with a reasonable waiting period to allow for analysis and, if need be, objection.

If reciprocity is not acceptable to API, then its Petition should be denied as fraught with potential for creating a de facto exclusive pool for API's constituents and those of the railroad and power industries in workhorse VHF and UHF spectrum heavily populated by manufacturers' radio systems. The Commission's records show 25,060 manufacturer radio systems with a total of 308,227 transmitters (based on data five years old). At the same time the records show 11,226 systems and 119,428 transmitters in the forest products industry, and 9,711 systems and 137,640 transmitters in telephone maintenance. This represents a total of 45,997 radio systems and 565,295 transmitters. Wireless Telecommunications Bureau Staff White Paper (December 8, 1996), Appendix B.¹

CONCLUSION

MRFAC appreciates the concerns of API and other separate pool proponents -- not the least of these being interference and the threat of auctions. However, this is no reason to pursue a "rob thy neighbor" strategy devoid of minimal regard for the needs of their industrial neighbors. For the foregoing reasons, MRFAC supports the adoption of coordination criteria if

¹ By contrast there are 24,598 pipeline systems and 340,913 transmitters. Id.

-- but only if -- such criteria are mutually and reciprocally applicable to the few industries which historically have shared spectrum below 470 MHz.

Respectfully submitted,

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September 30, 1999

Its Counsel

SHARED 450-470 MHz FREQUENCIES¹

FREQUENCIES (MHz)	IX	IF	IS	LX	IB	IP	IW	IT
451.175 - 451.675	10	10				10	10	10
451.700 - 451.750		2				2		
452.200 - 452.275		5		5				
452.350 - 452.450		3		3				
456.175 - 456.675 ²	10	10				10	10	10
456.700 - 456.750 ³		2				2		
462.475 - 462.525	2	2				2	2	2
467.475 - 467.525 ⁴	2	2				2	2	2

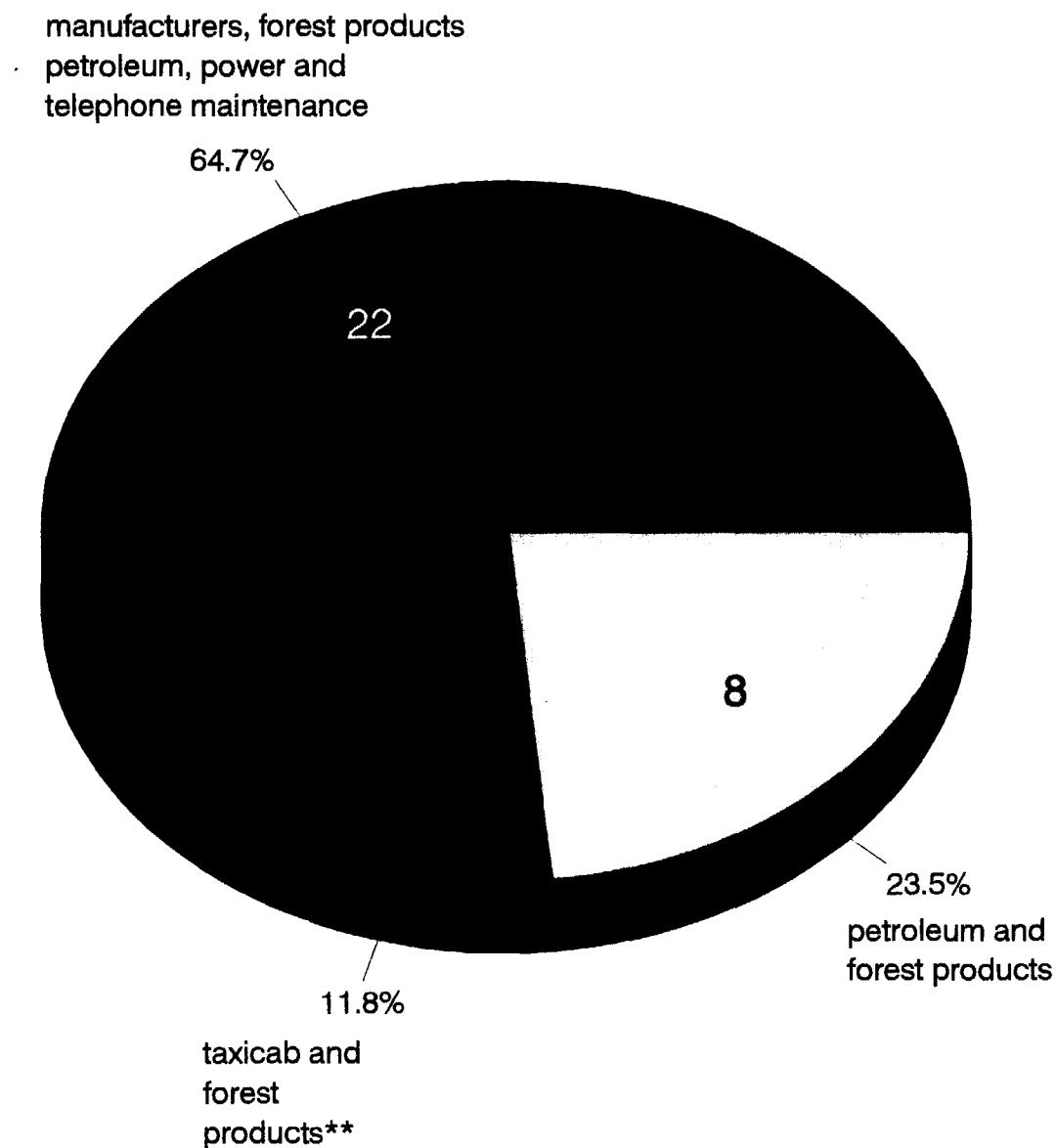
¹ Does not include paging or splinter frequencies

² Paired with 451.175 - 451.675

³ Paired with 451.700 - 451.750

⁴ Paired with 462.475 - 462.525

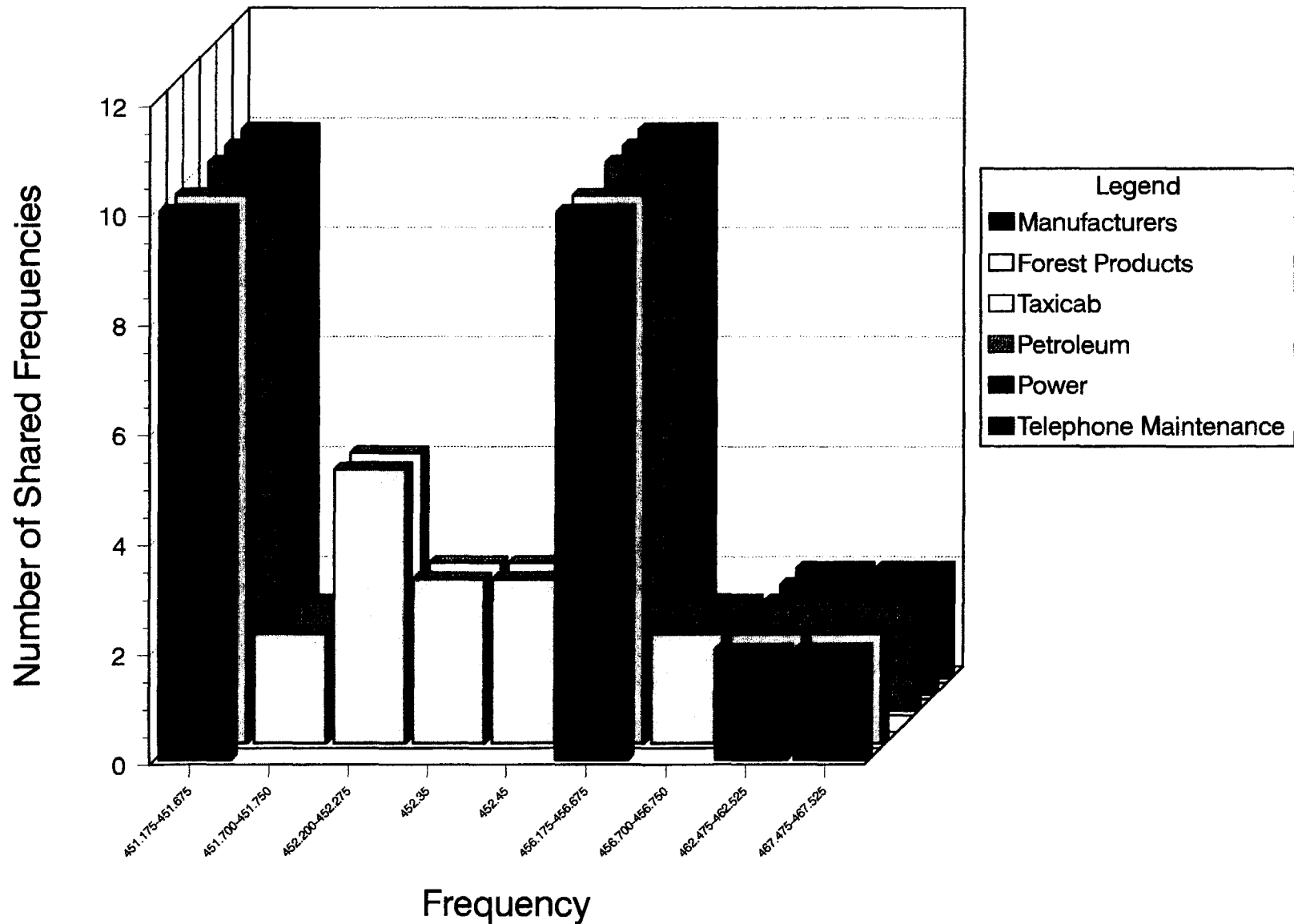
Number of Channels Shared by Specified Services, 450-470 MHz*



*Graph does not include paging or splinter channels

**Channels at 452.100-452.450 and 457.100-457.450 are available for forest products in ID, MT, OR, and WA

Shared 450-470 MHz Radio Frequencies

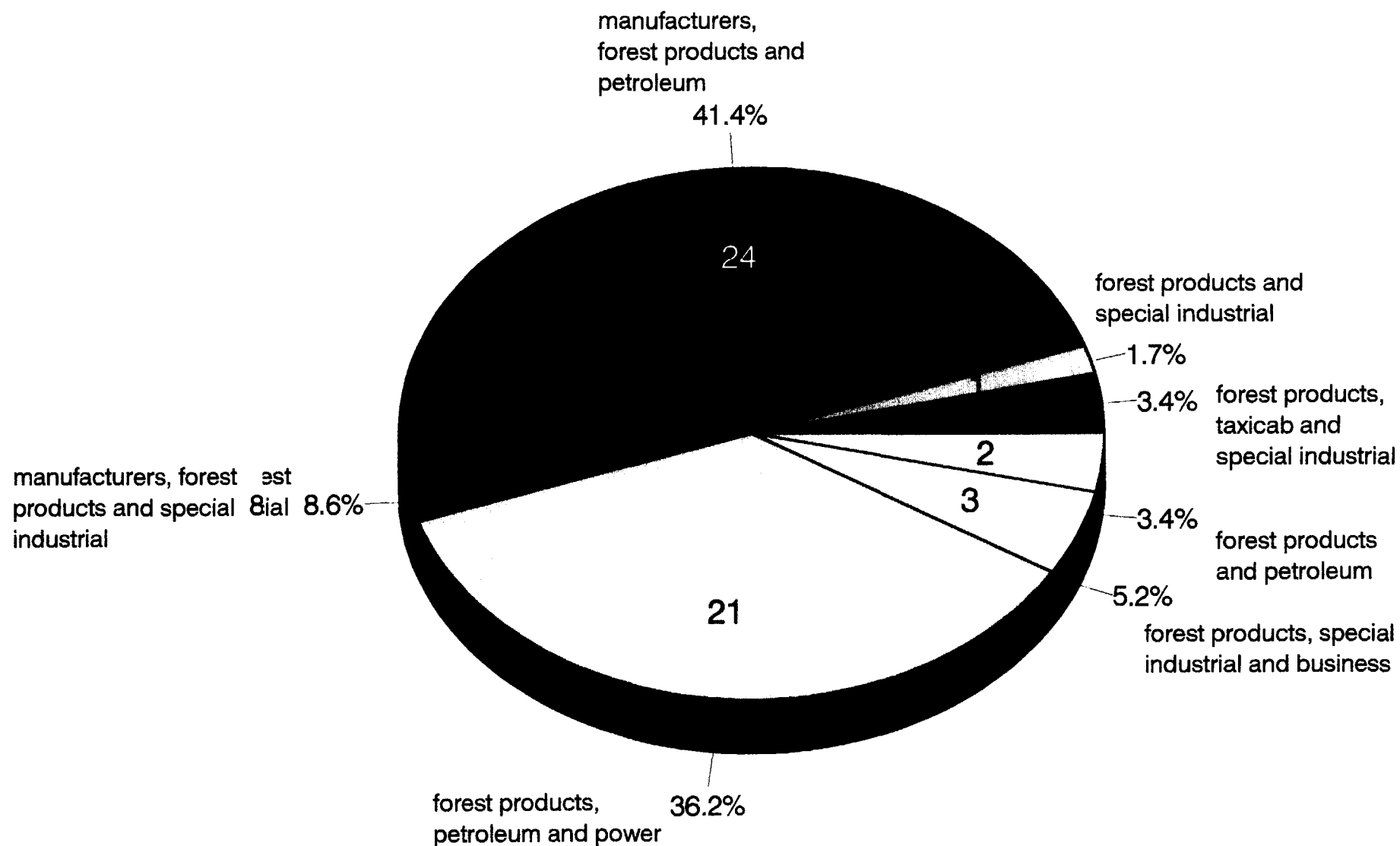


SHARED 150 MHz FREQUENCIES⁵

FREQUENCY (MHz)	IX	IF	IS	LX	IB	IP	IW
152.465		1	1	1			
152.480		1	1		1		
153.050 - 153.320	19	19				19	
153.335 - 153.395	5	5	5			5	
153.425 - 153.680		14				14	14
154.45625 - 154.47875		4					
154.625		1	1		1		
157.725		1	1	1			
157.740		1	1		1		
158.145 - 158.265		7				7	7
158.280 - 158.430	6	6				6	
158.355 - 158.370		2				2	
158.460		1	1		1		

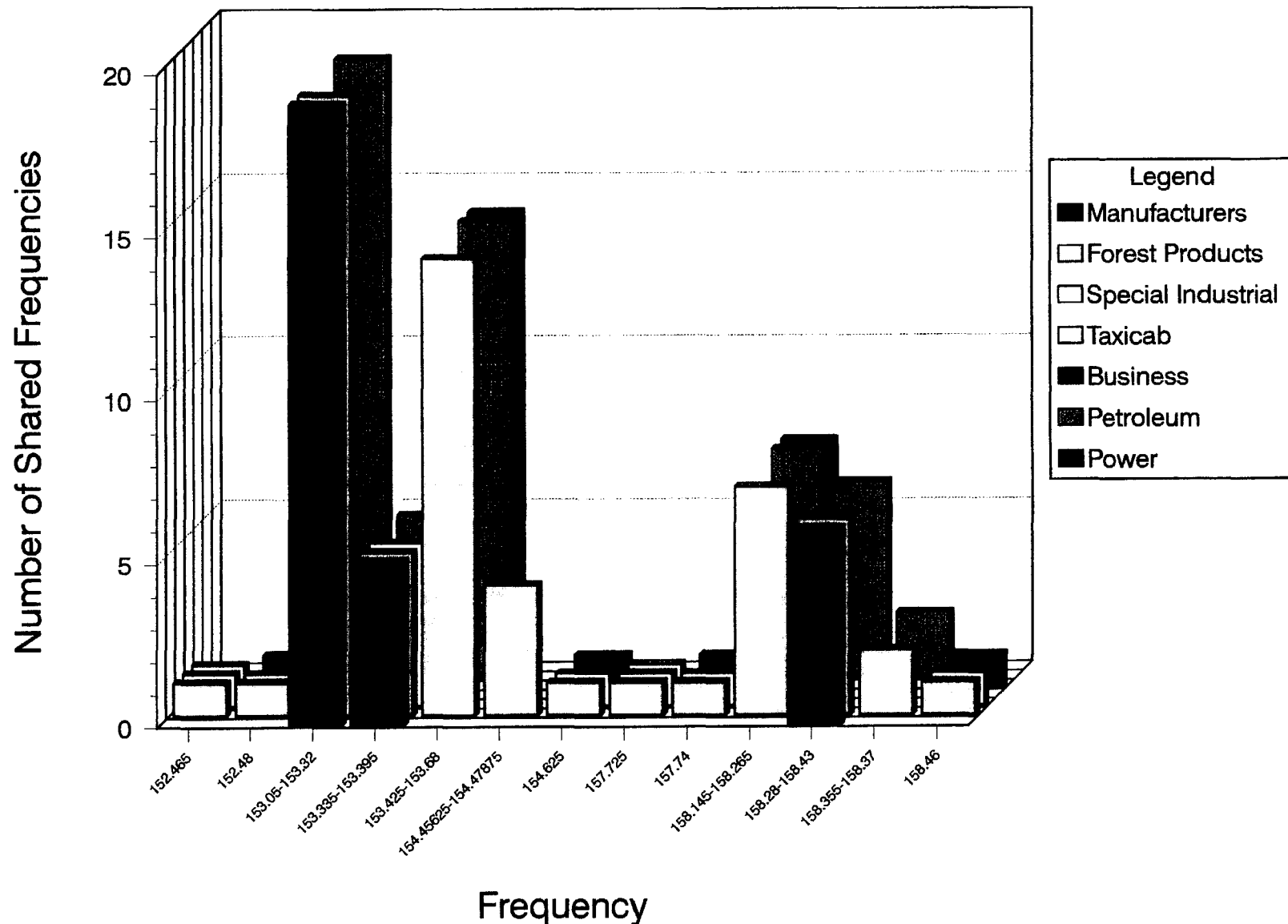
⁵ Does not include paging or splinter frequencies.

Number of Channels Shared by Specified Services, 150 MHz*



*Graph does not include paging or splinter channels

Shared 150 MHz Radio Frequencies*



*Graph does not include paging or splinter frequencies

CERTIFICATE OF SERVICE

I, Joseph C. Fezie, hereby certify that a true copy of the attached "Partial Opposition to Petition for Clarification" has been sent first-class, U.S. mail, to the following, this 30th day of September, 1999:

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Joseph C. Fezie